



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed:**  
**November 27, 2018 15:45**

**By: L. BRYAN CARR 0066649**

**Confirmation Nbr. 1560060**

**THOMAS J. CALVEY**

**CV 18 907516**

**vs.**

**Judge: MICHAEL E. JACKSON**

**VILLAGE OF WALTON HILLS, ET AL.**

**Pages Filed: 6**

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

THOMAS J. CALVEY  
c/o L. Bryan Carr, Esq.  
1392 SOM Center Road  
Mayfield Heights, Ohio 44124

Plaintiff,

vs.

THE VILLAGE OF WALTON HILLS  
c/o Mayor Donald Kolograf  
7595 Walton Road  
Walton Hills, Ohio 44146

and

THE VILLAGE OF WALTON HILLS  
POLICE DEPARTMENT  
c/o Chief, Stanley Jaworski  
7595 Walton Road  
Walton Hills, Ohio 44146

and

SARGENT DAVID KWIATKOWSKI  
c/o Village of Walton Hills Police Department  
7595 Walton Road  
Walton Hills, Ohio 44146

Defendants.

CASE NO:

JUDGE:

COMPLAINT

*Jury Demand Endorsed Hereon*

Now comes the Plaintiff, THOMAS CALVEY, by and through his duly authorized counsel, L. Bryan Carr, and for his complaint against the Defendants, states:

PARTIES

1. Plaintiff, Thomas J. Calvey, is a resident of Walton Hills, Ohio.
2. Defendant, Village of Walton Hills ("Walton Hills") is a municipal corporation.

3. Defendant Walton Hills Police Department is the law enforcement agency acting on behalf of the Village of Walton Hills.

4. Defendant David Kwiatkowski ("Kwiatkowski") is an Officer/Sargent with the Walton Hills Police Department, who is being sued in his individual and official capacities.

5. All acts giving rise to this Complaint occurred in Cuyahoga County, Ohio.

6. At all times relevant, Plaintiff was the legal owner of 18749 Alexander Road, Walton Hills, Ohio ("the Property").

7. At all times relevant, Plaintiff was residing at the Property with his mother (Leona Calvey) and brother (James Calvey).

8. On June 6, 2018 the Plaintiff was assaulted by James Calvey. As a result of this assault, the Defendants arrived at the Property, arrested James Calvey and issued a Temporary Protection Order restraining James Calvey from the Plaintiff and the Property.

9. Defendant Kwiatkowski was present at the Property on June 6, 2018, was the Reviewing Supervisor, prepared an Investigative Report and made the decision to charge James Calvey with Domestic Violence.

10. On or about June 8, 2018, the Defendants charged James Calvey with Domestic Violence in the Garfield Heights Municipal Court.

11. On or about June 21, 2018, James Calvey entered a plea of "no contest" to a charge of Attempted Assault (a Misdemeanor of the Second Degree).

12. On or about June 21, 2018, the Temporary Protection Order issued by Defendants (against James Calvey) terminated.

13. On June 22, 2018 the Plaintiff obtained a Domestic Violence Civil Protection Order (DVCPO) against James Calvey from the Cuyahoga County Domestic Relations Court.

This DVCPO granted Plaintiff exclusive use and possession of the Property. (Case No. DV-18-372490)

14. On or about June 22, the Defendants were served with a copy of this DVCPO.

15. On or about July 16, 2018, Leona Calvey fabricated a claim of domestic violence and filed a Petition for DVCPO against the Plaintiff.

16. On July 16, 2018, the Cuyahoga County Domestic Relations Court refused to issue a DVCPO against the Plaintiff, instead ordering Plaintiff and his mother to reside together in the Property. Defendants were aware of this.

17. On July 28, 2018, Leona Calvey called the Walton Hills Police Department claiming Plaintiff was yelling at her. When warned by the Walton Hills Police Department dispatcher that she could be arrested for making false claims, Leona Calvey admitted that she lied and that Plaintiff was not acting inappropriately.

18. On July 29, 2018, Leona Calvey called the Walton Hills Police Department again claiming Plaintiff was yelling at her. Defendant Kwiatkowski arrived on scene and, without any authority (and in violation of the existing DVSPD) forcibly removed the Plaintiff from his Property and told him not to return or he would be arrested.

19. Defendant Kwiatkowski simply dumped Plaintiff approximately ten (10) miles away from his home; at a LaQuinta Inn & Suites in Macedonia. When Plaintiff asked who would be paying the hotel bill, Kwiatkowski responded: "Have a nice life" and drove away.

20. Plaintiff was never charged by Defendants; nor did the Defendants ever issue a Temporary Protection Order against Plaintiff as a result of Leona Calvey's July 29, 2018 call.

**COUNT ONE**

**Violation of Civil Rights – 42 U.S.C. 1983**

**Deprivation of Right to Substantive and Procedural Due Process**

21. Plaintiff incorporates the allegations set forth in Paragraphs 1 through 20 above, as if fully rewritten herein.

22. Defendants, at all times relevant, are state actors who acted under color of law.

23. Defendants acted under color of law to deprive the Plaintiff of his civil rights namely, his rights to procedural and substantive due process of law, which are guaranteed to him and secured under the Ohio and United States Constitutions.

WHEREFORE, Plaintiff prays for Judgment against Defendants, jointly and severally, for: 1) Compensatory Damages; 2) Punitive Damages; 3) Plaintiff's costs in having to prosecute this action, including reasonable Attorney Fees pursuant to 41 U.S.C. 1988; 4) Other litigation costs; and 5) any other such relief as this Honorable Court may deem appropriate.

**COUNT TWO**

**Violation of Civil Rights – 42 U.S.C. 1983**

**Deprivation of Right to Liberty, Safety, Property and Privacy**

24. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 23 above, as if fully rewritten herein.

25. Defendants, at all times relevant, are state actors who acted under color of law.

26. Defendants acted under color of law to deprive the Plaintiff of his civil rights, namely, his right to liberty, safety, property, privacy and welfare, which rights are guaranteed to him and secured under the Ohio and United States Constitutions.

WHEREFORE, Plaintiff prays for Judgment against Defendants, jointly and severally, for: 1) Compensatory Damages; 2) Punitive Damages; 3) Plaintiff's costs in having to prosecute

this action, including reasonable Attorney Fees pursuant to 41 U.S.C. 1988; 4) Other litigation costs; and 5) any other such relief as this Honorable Court may deem appropriate.

**COUNT THREE**  
**Intentional Infliction of Emotional Distress**

27. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 26 above, as if fully rewritten herein.

28. By acting in the aforementioned manner, the Defendants intended to cause the Plaintiff serious emotional distress, or they knew or should have known that their actions would result in serious emotional distress to the Plaintiff.

29. Defendants' conduct was extreme and outrageous, as it went beyond all possible bounds of decency and can be considered as utterly intolerable in a civilized community.

30. The aforementioned conduct of the Defendants was the proximate cause of the Plaintiff's emotional distress. The mental anguish suffered by the Plaintiff is serious and of such a nature that no reasonable person could endure it.

WHEREFORE, Plaintiff prays for Judgment against the Defendants, jointly and severally, for: 1) Compensatory Damages; 2) Punitive Damages; 3) Plaintiff's costs in having to prosecute this action, including reasonable Attorney Fees pursuant to 41 U.S.C. 1988; 4) Other litigation costs; and 5) any other such relief as this Honorable Court may deem appropriate.

Respectfully submitted,

/s/ L. Bryan Carr

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